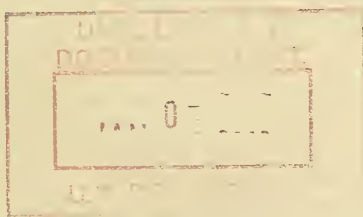


NATIONAL RECOVERY ADMINISTRATION

AMENDMENT TO
CODE OF FAIR COMPETITION
FOR THE
MOTOR VEHICLE RETAILING
TRADE

AS APPROVED ON OCTOBER 19, 1934



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AMENDMENT TO CODE OF FAIR COMPETITION

FOR THE

MOTOR VEHICLE RETAILING TRADE

As Approved on October 19, 1934

ORDER

APPROVING AMENDMENT OF CODE OF FAIR COMPETITION FOR THE MOTOR
VEHICLE RETAILING TRADE

An application having been duly made pursuant to and in full compliance with the provisions of Title I of the National Industrial Recovery Act, approved June 16, 1933, for approval of an amendment to the Code of Fair Competition for the Motor Vehicle Retailing Trade, and hearings having been duly held thereon and the annexed report on said amendment, containing findings with respect thereto, having been made and directed to the President:

NOW, THEREFORE, on behalf of the President of the United States, the National Industrial Recovery Board, pursuant to authority vested in it by Executive Orders of the President, including Executive Order No. 6859, dated September 27, 1934, and otherwise; does hereby incorporate, by reference, said annexed report and does find that said amendment and the Code as constituted after being amended comply in all respects with the pertinent provisions and will promote the policy and purposes of said Title of said Act, and does hereby order that said amendment of said Code be and it is hereby approved, and that the previous approval of said Code is hereby amended to include an approval of said Code in its entirety as amended; provided, however, that pending the designation of an impartial agency or person as set forth in Section 1 of this amendment, the Compliance Division of the National Recovery Administration be, and is hereby designated as the agency to determine whether the wage and/or hour and/or labor provisions of this Code have been violated so as to make operative the provisions of subsection (a), (b) and (c) of Section 1 of this amendment; and provided further, that amounts paid or collected in all instances wherein the provisions of subsections (d) and (e) of Section 1 of this amendment become operative in any of the several code states established

as set forth in Title A of this Article V, shall be distributed in the code state where the violation occurred in accordance with the method prescribed in Section 2 of this amendment.

NATIONAL INDUSTRIAL RECOVERY BOARD,
By G. A. LYNCH, *Administrative Officer.*

Approval recommended:

BARTON W. MURRAY,
Division Administrator.

WASHINGTON, D. C.,
October 19, 1934.

REPORT TO THE PRESIDENT

The PRESIDENT,
The White House.

SIR: An application has been duly made pursuant to and in full compliance with the provisions of the National Industrial Recovery Act, for an amendment to the Code of Fair Competition for the Motor Vehicle Retailing Trade, submitted by the National Control Committee on behalf of the Emergency National Committee.

The purpose and effect of the amendment are to permit such committees under the Code, who qualify with the requirements contained in the amendment, to endeavor to secure compliance with the provisions of the Code without immediate recourse to the Federal channels of law enforcement as provided for in the National Industrial Recovery Act.

FINDINGS

The Deputy Administrator in his final report to us on said amendment to said Code having found as herein set forth and on the basis of all the proceedings in this matter:

We find that:

(a) The amendment to said Code and the Code as amended are well designed to promote the policies and purposes of Title I of the National Industrial Recovery Act including the removal of obstructions to the free flow of interstate and foreign commerce which tend to diminish the amount thereof, and will provide for the general welfare by promoting the organization of industry for the purpose of cooperative action among trade groups, by inducing and maintaining united action of labor and management under adequate governmental sanction and supervision, by eliminating unfair competitive practices, by promoting the fullest possible utilization of the present productive capacity of industries, by avoiding undue restrictions of production (except as may be temporarily required), by increasing the consumption of industrial and agricultural products through increasing purchasing power, by reducing and relieving unemployment, by improving standards of labor, and by otherwise rehabilitating industry.

(b) The Code as amended complies in all respects with the pertinent provisions of said Title of said Act, including without limitation Subsection (a) of Section 3, Subsection (a) of Section 7 and Subsection (b) of Section 10 thereof.

(c) The Code empowers the Code Authority to present the afore-said amendment on behalf of the industry as a whole.

(d) The amendment and the Code as amended are not designed to and will not permit monopolies or monopolistic practices.

(e) The amendment and the Code as amended are not designed to and will not eliminate or oppress small enterprises and will **not** operate to discriminate against them.

(f) Those engaged in other steps of the economic process have not been deprived of the right to be heard prior to approval of said amendment.

For these reasons, therefore, the Board has approved this amendment.

For the National Industrial Recovery Board:

G. A. LYNCH,
Administrative Officer.

OCTOBER 19, 1934.

AMENDMENT TO CODE OF FAIR COMPETITION FOR THE MOTOR VEHICLE RETAILING TRADE

To include in and add to, Article V, the following to be known as Title C—Liquidated Damages.

TITLE C—LIQUIDATED DAMAGES

Recognizing that the violation by a member of any provision of this code will disrupt the normal course of fair competition in the trade and cause serious damage to others, and that it will be impossible accurately to determine the amount of such damage, it is hereby provided that those members who may desire to do so may enter into an agreement among themselves embodying the following provisions:

1. Each member violating any provision of this code shall pay to the Treasurer of the Code Authority, as an individual and not as Treasurer, in trust, as and for liquidated damages, upon determination of violation by the Administrator, or any impartial agency or person nominated by the Code Authority or designated by the assenters to this agreement and approved by the Administrator, amounts as set forth below:

(a) For the violation of any wage provision, an amount equal to the difference between the wages which have been paid and the wages which would have been paid if the member had complied with the applicable provisions of the code;

(b) For the violation of any hour provision, an amount equal to the wages payable for the overtime at the regular rate payable under the terms of the code, to the employee or employees who worked overtime;

(c) For the violation of any labor provision of the code other than an hour or wage provision, One Hundred Dollars;

(d) For the violation of any provision of the code (other than a labor provision) involving a transaction incidental to or connected with a sale of any product of the trade, an amount equal to 25 percent of the actual selling price of the product sold in violation of any such provision, or of the price at which the product should have been sold under the code, if determinable, whichever is the higher;

(e) For the violation of any provision of the code (other than a labor provision) not involving a transaction incidental to or connected with a sale of any product of the trade, One Hundred Dollars.

2. All amounts so paid to or collected by the Treasurer of the Code Authority, under the provisions of this Article, shall be applied by him as follows: First, if the violation shall have been of a labor provision of the code, equitable distribution of all damages paid therefor shall be made among all employees directly affected by such violation; Second, if the violation shall have been of a code provision other



than a labor provision, the damages arising therefrom shall be utilized to defray proper expenses of code administration, and the balance, if any, remaining in the hands of the Treasurer shall be distributed semi-annually among members of the trade who have assented hereto and who have not been determined to have been guilty of a violation of a code provision during the preceding semi-annual period, on the basis of the most recent assessment made against members of the trade for the expense of code administration.

3. Assent to this Article by any member shall be evidenced by a signed statement signifying assent, filed with the Code Authority. Failure to assent to this Article shall not deprive any member of any other right or privilege under the Code. By so assenting, each member agrees with every other member and the Treasurer, individually (1) that violation of a code provision shall breach this agreement and shall render the violator liable for the payment of liquidated damages as herein provided, (2) all rights and causes of action arising hereunder are assigned to the Treasurer, individually and in trust, and (3) that the Treasurer, as such assignee and as attorney in fact for each assenting member, may take all proper legal action concerning damages found due hereunder.

4. The Code Authority may waive liability for payment of liquidated damages for any violation it finds to have been innocently made and resulting in no material injury.

5. The Treasurer of the Code Authority, as an individual, and not as Treasurer, by accepting office, accepts the trust established by this contract and agrees to perform the duties of Trustee hereunder until his successor in office may have been appointed.

6. Nothing contained herein shall be construed or applied to (a) deprive any person of any right or right of action arising out of this code, or (b) relieve any member of the trade from any contractual or legal obligation arising out of this code or of the Act or otherwise; nor shall violation of this agreement by an assenting member be deemed a violation of the code, so as to subject the violator to any consequence arising under Section 3(b), Section 3(c), or Section 3(f) of the National Industrial Recovery Act, nor to any criminal prosecution of any kind.

Approved Code No. 46—Amendment No. 3.
Registry No. 1403-32.

